

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

	)	Case No. 07-0201 SC
	)	
JEFF POKORNY, LARRY BLENN, and	)	ORDER RE: ALLENS' OBJECTION TO
KENNETH BUSIERE, on behalf of	)	<u>HARDSHIP AWARDS AND SEAN FELDER</u>
themselves and those similarly	)	
situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
QUIXTAR, INC., et al.,	)	
	)	
Defendants.	)	
	)	

**I. INTRODUCTION**

Now before the Court is an objection by David R. Allen and Connie M. Allen ("the Allens") to the Special Master's report and recommendation denying their special hardship claim. ECF No. 345 ("R&R"). The Court has also received a letter from Claimant Sean Felder, never filed on this case's docket, indicating his displeasure with his award of \$1,000 and requesting various other relief. For the reasons discussed below the Court OVERRULES the Allen's objection and DENIES Felder's requests.

**II. BACKGROUND**

The settlement agreement in this case provided for a special hardship fund from which former Quixtar Independent Business Owners

1 ("IBOs") who are covered by the settlement could receive a cash  
2 payment of up to 20 percent of their losses, for a maximum of  
3 \$10,000, minus any repayments for Business Support Materials  
4 ("BSM"), which were awarded under a separate section of the  
5 agreement. ECF No. 162-2 ("Settlement Agreement") § 6.1.2. The  
6 relevant period for losses covered by this settlement began on  
7 January 1, 2003. Successful hardship claimants were required to  
8 show that their recruitment into and operation of their Quixtar  
9 business (i) caused them to file for personal bankruptcy or (ii)  
10 caused a loss of at least \$10,000 from operating their Quixtar  
11 business. Id.

12 Per the Settlement Agreement, all hardship claims were to be  
13 adjudicated by the Special Master. Losses had to be proven by a  
14 "Schedule C or other schedule from a federal tax return, schedules  
15 filed in connection with a bankruptcy filing, or comparably  
16 reliable documentation acceptable to the Special Master." Id. §  
17 6.1.2(c).

18 The Court has previously ruled on several objections to  
19 hardship claims. See, e.g., ECF No. 334 ("Apr. 1 Order").  
20 Recently, the Court received an objection to a report and  
21 recommendation from the Special Master recommending the rejection  
22 of the Allen's special hardship claim. ECF No. 345 (R&R"). As the  
23 Special Master noted the Allen's claims fall outside the claims  
24 period. As a result, he recommended denial of the Allens' claims.  
25 Now the Allens object.

### 26 27 **III. LEGAL STANDARD**

28 The Court reviews the Special Master's report and

1 recommendation de novo.

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3 **IV. DISCUSSION**

4 **A. The Allens**

5 As discussed above, the Settlement Agreement here covers  
6 losses beginning on January 1, 2003. However, the Allens submitted  
7 Schedule Cs for 1997-2000. The Allens recognize that their  
8 submissions predate the class period, but nevertheless request  
9 consideration of their business losses because they "were [led] on  
10 [by] senior officials that should be held accountable." ECF No.  
11 346 Ex. B ("Obj.").

12 While the Court is not unsympathetic to the Allens,  
13 unfortunately their claims fall outside the class period. As a  
14 result there is no legal basis for the Court to award any  
15 additional compensation, and the Special Master rightly denied  
16 their request for a special hardship award. Accordingly the  
17 Allens' objection is OVERRULED.

18 **B. Sean Felder**

19 As mentioned above, the Court received a letter from Felder,  
20 one of the claimants. Attached was a letter from Plaintiffs'  
21 counsel, apparently sent to Felder some months ago in response to  
22 correspondence from him. The letter from Plaintiffs' counsel  
23 indicated that under the terms of the settlement, Felder submitted  
24 a claim form requesting a product bundle and indicating that he  
25 spent "over \$5,000" on BSMs. Subsequently, Felder received a  
26 product bundle and a cash payment of \$1,000, or twenty percent of  
27 \$5,000, as provided for in the Settlement Agreement.

28 Now Felder has written to the Court to indicate his

1 displeasure with his award. Specifically, he indicates that he  
2 should be awarded \$10,000 more "because Amway tried to disrupt my  
3 business, [and] use[d] discriminatory tactics to discourage me!"  
4 In support of his discrimination allegations, he apparently  
5 previously sent Plaintiffs' counsel a charge he filed with the  
6 Michigan Department of Civil Rights and Equal Employment  
7 Opportunity Commission ("EEOC") alleging racial discrimination  
8 arising from Amway's alleged denial of payment and opportunities on  
9 the basis of race.

10 Because there is no basis in the Settlement Agreement for  
11 granting Felder any additional compensation, the Court DENIES his  
12 request. Nonetheless, the Court notes that the Settlement  
13 Agreement in this case and this litigation generally do not cover  
14 allegations of racial discrimination by Amway. As a result, if Mr.  
15 Felder wishes to allege discrimination by Amway or seek  
16 compensation for Amway's allegedly discriminatory actions, he must  
17 pursue his EEOC claims further or follow the process for obtaining  
18 a right to sue from the EEOC. See U.S. Equal Employment  
19 Opportunity Commission, After You Have Filed A Charge,  
20 <http://www.eeoc.gov/employees/afterfiling.cfm>.

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1 **V. CONCLUSION**

2 For the reasons explained above, the Allens' objection to  
3 their special hardship award is OVERRULED. Felder's request for  
4 additional compensation is DENIED.

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6 IT IS SO ORDERED.

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8 Dated: December 15, 2014

  
UNITED STATES DISTRICT JUDGE